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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,471	02/27/2002	Makiko Saito	067183-0194	4764
22428	7590	03/29/2007	EXAMINER	
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			DUNHAM, JASON B	
			ART UNIT	PAPER NUMBER
			3625	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	03/29/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/083,471	SAITO, MAKIKO	
	Examiner	Art Unit	
	Jason B. Dunham	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 February 2002.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-16 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 27 February 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/6/04, 10/13/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because applicant submitted informal drawings dated February 27, 2002 with uneven shading and borders. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 15 is rejected under 35 U.S.C. 101.

Referring to claim 15. Claims to computer-related inventions that are clearly nonstatutory fall into the same general categories as nonstatutory claims in other arts, namely natural phenomena such as magnetism, and abstract ideas or laws of nature which constitute "descriptive material." Abstract ideas, Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759, or the mere manipulation of abstract ideas, Schrader, 22 F.3d at 292-93, 30 USPQ2d at 1457-58, are not patentable. Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data. Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se. Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Claim 15 fails to recite a computer program that is embodied on a computer-readable medium. The claim is merely directed to a computer program per se.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Boyden (US 2002/0143646 A1).

Referring to claim 1. Boyden discloses an auction system, comprising:

- a plurality of user terminals (Boyden: abstract and figure 1); and
- a server connected to said-user terminals through a network and having an auction site formed therein for receiving bids from said user terminals and determining a successful bidder for an auction commodity based on the received bids (Boyden: paragraphs 4 and 7);
- said server exhibiting, in said auction site thereof, a delivery charge bearing object commodity which is to be sold by a dealer and with which part or all of a delivery charge for the auction commodity for which a user is determined as a successful bidder is to be borne so that the delivery charge bearing object commodity may be sold in combination with the auction commodity in response to a request from one of said user terminals (Boyden: paragraph 50).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyden (US 2002/0143646) in view of Abhyanker (US 2002/0116305).

Referring to claim 2. Boyden further discloses an auction system comprising:

- a plurality of personal seller terminals and a plurality of participant terminals (Boyden: figure 1); and
- an auction server connected to said personal seller terminals and said participant terminals through a network (Boyden: paragraphs 4 and 7);
- said auction server having an auction information reception storage function for receiving and storing auction commodity information from said personal seller terminals, an auction information transmission function for transmitting the auction commodity information to any of said participant terminals in response to a request from the participant terminal, and an auction function for receiving bidding information from said participant terminals based on the auction commodity information and determining a successful bidder based on the bidding information (Boyden: figure 11);
- Boyden discloses all of the above but does not expressly discloses a seller bearing the cost for delivery of a commodity. Abhyanker discloses an auction

system wherein an auction server further having a dealer information reception storage function for receiving, from a dealer terminal owned by a predetermined dealer and connected to said auction server through said network, and storing dealer provision information including dealer commodity information which is information regarding a commodity to be sold by said dealer and delivery charge information which is information regarding the charge for delivery to be borne by said dealer in place of the person who purchases the dealer commodity (Abhyanker: abstract and paragraphs 14 and 41). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the system of Boyden to have included the seller bearing the cost for delivery of a commodity, as taught by Abhyanker, in order to allow a seller to receive lower costs for shipping (Abhyanker: abstract).

- said auction information transmission function placing and transmitting the dealer provision information into and together with the information to be transmitted to the participant terminal (Boyden: abstract, figure 1, and paragraphs 7 and 26);
- said auction function receiving purchase desired commodity information corresponding to the dealer provision information transmitted from said participant terminals together with the bidding information (Boyden: abstract and paragraphs 7 and 26).

Referring to claim 3. The combination of Boyden and Abhyanker further discloses an auction system wherein said auction server further has an information classification function for classifying the auction commodity information from said

personal seller terminals based on the auction commodity information and classifying the dealer provision information including the dealer commodity information from said dealer terminal based on the dealer commodity information, and a link registration function for linking the auction commodity information and the dealer provision information based on the classifications by said information classification function, and said auction information transmission function transmits the auction commodity information and the dealer provision information linked to each other by said link registration function to the participant terminal (Boyden: figure 2H and paragraphs 33 and 40). The examiner notes that categorizing or classifying a commodity is not patently distinct.

Referring to claim 4. The combination of Boyden and Abhyanker further discloses an auction system wherein the auction commodity information regarding each auction commodity includes information for specifying a classification of the auction commodity, and the dealer commodity information regarding the dealer commodity included in the dealer provision information includes information for specifying a classification of the dealer commodity (Boyden: figure 2H and paragraph 40).

Referring to claim 5. The combination of Boyden and Abhyanker further discloses an auction system wherein said auction server further has a delivery information reception storage function for receiving and storing distribution information of a plurality of predetermined distributors from distributor terminals owned by said distributors and connected to said auction server through said network, and said auction information reception storage function transmits, when auction commodity information is

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received from any of said personal seller terminals, the delivery information to the personal seller terminal and receives first distributor designation information which designates one of said distributors which is entrusted with delivery of the auction commodity by the personal seller while said dealer information reception storage function transmits, when auction commodity information is received from said dealer terminal, the delivery information to the personal seller terminal and receives second distributor designation information which designates one of said distributors which is entrusted with delivery of the dealer commodity by the dealer, said information classification function classifying the auction commodity information and the dealer provision information based on the first distributor designation information and the second distributor designation information (Boyden: paragraphs 29 and 69).

Referring to claims 6-7. Claim 6-7 are rejected under the same rationale set forth above in the rejection of claims 1-5.

Referring to claim 8. The combination of Boyden and Abhyanker further discloses an auction system wherein the commodity selection information is information for selection of one commodity (Boyden: figure 3f).

Referring to claims 9-16. Claim 9-16 are rejected under the same rationale set forth above in the rejection of claims 1-5.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason B. Dunham whose telephone number is 571-272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JBD
Patent Examiner
3/27/07


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